

Department of Energy

970.2701-1

970.2671 Diversity.

970.2671-1 Policy.

Department of Energy policy recognizes that full utilization of the talents and capabilities of a diverse work force is critical to the achievement of its mission. The principal goals of this policy are to foster and enhance partnerships with small, small disadvantaged, women-owned small businesses, and educational institutions; to match capabilities with existing opportunities; to track small, small disadvantaged, women-owned small business, and educational activity; and to develop innovative strategies to increase opportunities.

970.2671-2 Contract clause.

The contracting officer shall insert the clause at 48 CFR 970.5226-1, Diversity Plan, in all management and operating contracts.

970.2672 Implementation of Section 3161 of the National Defense Authorization Act for Fiscal Year 1993.

970.2672-1 Policy.

Consistent with the objectives of section 3161 of the National Defense Authorization Act for Fiscal Year 1993, 42 U.S.C. 7274h, in instances where the Department of Energy has determined that a change in work force at a DOE Defense Nuclear Facility is necessary, DOE contractors and subcontractors at DOE Defense Nuclear Facilities shall accomplish work force restructuring or displacement so as to mitigate social and economic impacts and in a manner consistent with any DOE work force restructuring plan in effect for the facility or site. In all cases, mitigation shall include the requirement for hiring preferences for employees whose positions have been terminated (except for termination for cause) as a result of changes to the work force at the facility due to restructuring accomplished under the requirements of section 3161. Where applicable, contractors may take additional actions to mitigate consistent with the Department's Workforce Restructuring Plan for the facility or site.

970.2672-2 Requirements.

The requirements set forth in 48 CFR 926.71, Implementation of Section 3161 of the National Defense Authorization Act for Fiscal Year 1993, for contractors and subcontractors to provide a hiring preference for employees under Department of Energy contracts whose employment in positions at a Department of Energy Defense Nuclear Facility is terminated (except for a termination for cause) applies to management and operating contracts.

970.2672-3 Contract clause.

The contracting officer shall insert the clause at 48 CFR 970.5226-2, Workforce Restructuring Under Section 3161 of the National Defense Authorization Act for Fiscal Year 1993, in contracts for the management and operation of Department of Energy Defense Nuclear Facilities and, as appropriate, in other contracts that include site management responsibilities at a Department of Energy Defense Nuclear Facility.

970.2673 Regional partnerships.

970.2673-1 Policy.

It is the policy of the DOE to be a constructive partner in the geographic region in which DOE conducts its business. The basic elements of this policy include:

- (a) Recognizing the diverse interests of the region and its stakeholders,
- (b) Engaging regional stakeholders in issues and concerns of mutual interest, and
- (c) Recognizing that giving back to the community is a worthwhile business practice.

970.2673-2 Contract clause.

The contracting officer shall insert the clause at 48 CFR 970.5226-3, Community Commitment, in all management and operating contracts.

Subpart 970.27—Patents, Data, and Copyrights

970.2701 General.

970.2701-1 Applicability.

This subpart applies to negotiation of patent rights, rights in technical data

970.2702

provisions and other related provisions for the Department of Energy contracts for the management and operation of DOE's major sites or facilities, including the conduct of research and development and nuclear weapons production, and contracts which involve major, long-term or continuing activities conducted at a DOE site.

970.2702 Patent related clauses.

970.2702-1 Authorization and consent.

Contracting officers must use the clause at 970.5227-4, Authorization and Consent, instead of the clause at 48 CFR 52.227-1.

970.2702-2 Notice and assistance regarding patent and copyright infringement.

Contracting officers must use the clause at 970.5227-5, Notice and Assistance Regarding Patent and Copyright Infringement, instead of the clause at 48 CFR 52.227-2.

970.2702-3 Patent indemnity.

(a) Contracting officers must use the clause at 970.5227-6, Patent Indemnity—Subcontracts to assure that subcontracts appropriately address patent indemnity.

(b) Normally, the clause at 48 CFR 52.227-3 would not be appropriate for an M&O contract; however, if there is a question, such as when the mission of the contractor involves production, the contracting officer must consult with local patent counsel and use the clause where appropriate.

970.2702-4 Royalties.

Contracting officers must use the solicitation provision at 970.5227-7, Royalty Information, and the clause at 970.5227-8, Refund of Royalties instead of the provision at 48 CFR 52.227-8 and the clause at 48 CFR 52.227-9, respectively.

970.2702-5 Rights to proposal data.

Contracting officers must include the clause at 48 CFR 52.227-23, Rights to Proposal Data, in all solicitations and contracts for the management and operation of DOE sites and facilities.

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970.2702-6 Notice of right to request patent waiver.

Contracting officers must include the provision at 970.5227-9 in all solicitations for contracts for the management and operation of DOE sites or facilities.

970.2703 Patent rights.

970.2703-1 Purposes of patent rights clauses.

(a) DOE sites and facilities are managed and operated on behalf of the Department of Energy by a contractor, pursuant to management and operating contracts that are generally awarded for a five (5) year term, with the possibility for renewal. Special provisions relating to patent rights are appropriately incorporated into an M&O contract because of the unique circumstances and responsibilities of managing and operating a Government-owned facility, as compared to other federally funded research and development contracts.

(b)(1) *Technology transfer mission clause.* In accordance with Public Law 101-189, section 3133(d), DOE may grant technology transfer authority to M&O contractors operating a DOE facility. Generally, M&O contractors have the right to elect to retain title to inventions made under the contract, whether a nonprofit or educational organizations, as a result of 35 U.S.C. 200 *et seq.* (Bayh-Dole Act), or a large business, as a result of a class patent waiver issued pursuant to 10 CFR part 784. Under such contracts, the M&O contractor assumes responsibilities for commercializing retained inventions, in accordance with the Technology Transfer Mission clause provided at 970.5227-3. That clause also governs such activities as the distribution of royalties earned from inventions made under the contract and the transfer of patent rights in inventions made under the contract to successor contractors.

(2) If the M&O contractor is a nonprofit organization or small business firm having technology transfer authority, the following clauses are inserted into the M&O contract: 970.5227-3 and 970.5227-10.

(3) If the M&O contract has technology transfer as a mission and is to